

AMENDED IN ASSEMBLY MAY 14, 1996

AMENDED IN ASSEMBLY MAY 2, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3434

Introduced by Assembly Member House

February 23, 1996

An act to ~~add Section 3306.5 to the Government~~ *amend Section 832.5 of the Penal Code*, relating to ~~public safety~~ *peace officers*.

LEGISLATIVE COUNSEL'S DIGEST

AB 3434, as amended, House. ~~Public safety~~ *Peace officers*: personnel files.

~~The Public Safety Officers Procedural Bill of Rights Act contains provisions regarding the rights and protections afforded specified public safety officers with respect to investigation and interrogation of public safety officers.~~

~~This bill would require that, once an investigation of a complaint against a public safety officer has been determined by the appropriate authorities to be unfounded, the complaint and any other related documentation be removed from the personnel file of the public safety officer against whom the complaint was made. It would also provide that this requirement shall be included in every record destruction schedule adopted by any public safety department.~~

Existing law requires each department or agency in this state that employs peace officers to establish a procedure to

investigate citizens' complaints against the personnel of these departments or agencies, and to make a written description of the procedure available to the public. Existing law also requires that complaints shall be retained for a period of at least 5 years.

This bill would provide that complaints by members of the public that are determined by the peace officer's employing agency to be unfounded shall not be maintained in that officer's personnel records. It would also provide, however, that these complaints and any reports or findings relating to these complaints shall be retained in other files that shall be deemed personnel records for purposes of the California Public Records Act and provisions relating to the discovery and disclosure of a peace officer's personnel records. The imposition of these new requirements on local agencies would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3306.5 is added to the~~
2 ~~Government Code, to read:~~
3 ~~3306.5. Once an investigation of a complaint against~~
4 ~~a public safety officer has been determined by the~~
5 ~~appropriate authorities to be unfounded, that complaint~~
6 ~~and any other related documentation shall be removed~~
7 ~~from the personnel file of the public safety officer against~~
8 ~~whom the complaint was made. This requirement shall~~

1 ~~be included in every record destruction schedule~~
2 ~~adopted by any public safety department.~~

3 *SECTION 1. Section 832.5 of the Penal Code is*
4 *amended to read:*

5 832.5. (a) Each department or agency in this state
6 ~~which~~ *that* employs peace officers shall establish a
7 procedure to investigate citizens' complaints against the
8 personnel of ~~such~~ *these* departments or agencies, and
9 shall make a written description of the procedure
10 available to the public.

11 (b) Complaints and any reports or findings relating
12 ~~thereto~~ *to these complaints* shall be retained for a period
13 of at least five years.

14 (c) *Complaints by members of the public that are*
15 *determined by the peace officer's employing agency to*
16 *be unfounded shall not be maintained in that officer's*
17 *personnel records. However, these complaints shall be*
18 *retained in other files that shall be deemed personnel*
19 *records for purposes of the California Public Records Act*
20 *(Chapter 3.5 (commencing with Section 6250) of*
21 *Division 7 of Title 1 of the Government Code) and*
22 *Section 1043 of the Evidence Code.*

23 SEC. 2. Notwithstanding Section 17610 of the
24 Government Code, if the Commission on State Mandates
25 determines that this act contains costs mandated by the
26 state, reimbursement to local agencies and school
27 districts for those costs shall be made pursuant to Part 7
28 (commencing with Section 17500) of Division 4 of Title
29 2 of the Government Code. If the statewide cost of the
30 claim for reimbursement does not exceed one million
31 dollars (\$1,000,000), reimbursement shall be made from
32 the State Mandates Claims Fund.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.